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| 10/025,790 | 12/26/2001 | Mingzhi Li | LUN-0200 | 5866 |

7590 04/09/2009
David T. Nikaido
RADER, FISHMAN & GRAUER, PLLC
1233 20th Street, NW, Suite 501
Washington, DC 20036

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| EXAMINER |
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JOO, JOSHUA

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| ART UNIT | PAPER NUMBER |
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2454

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04/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: MINGZI LI, SHIYI SHEN, SHUSEN AN, ZHIGUANG ZHANG,
LIANSHENG WANG, RAN YAO, RUI WANG, and LIUHUAN DONG

Application No. 10/025,790
Technology Center 2400

Mailed: April 8, 2009

Before ERIC W. HAWTHORNE, *Supervisory Paralegal Specialist*
HAWTHORNE, *Supervisory Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on November 12, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

EXAMINER'S ANSWER, EVIDENCE RELIED UPON

Section §1207.02 of the *Manual of Patent Examining Procedure* (MPEP) (Eighth Edition, Rev. 6, September 2007) states:

(A) CONTENT REQUIREMENTS FOR EXAMINER'S ANSWER. The examiner's answer is required to include, under appropriate headings, in the order indicated, the following items:

. . . .

- (8) Evidence Relied Upon. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and in the case of nonpatent references, the relevant page or pages.

The Examiner's Answer mailed December 12, 2007 is deficient because the "Evidence Relied Upon" section fails to include the reference(s) Guheen et al, US Publication #2004/0107125, Roerick, US Publication #2002/0097715, McKinney et al, US Publication #2005/0188009 , McGarry et al, US Patent #6,038,491, Rademacher, US Patent #5,450,938, and Schanin, US Publication #2004/0000154. These references are cited on pages 3–16 of the Examiner's Answer's grounds of rejection of claims 1, 2, 4-7 and 17 under 35 USC § 103(a).

Appropriate correction is required.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

1) to issue a PTO-90 citing the missing references listed under the Evidence Relied Upon section, paragraph (8); and

2) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

EWB/nhl

David T. Nikaido
RADER, FISHMAN & GRAUER, PLLC
1233 20th Street, NW, Suite 501
Washington DC 20036